

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOHN WILEY & SONS, INC.,	:	Case No. 1:11-cv-05454 (KPF)
Plaintiff, Counterclaim Defendant,	:	
	:	
-against-	:	<b>DECLARATION OF</b>
	:	<b>LISA SUAREZ</b>
DRK PHOTO,	:	
Defendant, Counterclaimant.	:	
	:	

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I, Lisa Suarez, hereby declare pursuant to 28 U.S.C. § 1746, as follows:

1. I am employed by defendant John Wiley & Sons, Inc. ("Wiley") as a manager of inventory in the Finance and Operations department. Among my many responsibilities, I oversee the reprinting and distribution of Wiley textbooks. I respectfully submit this declaration in opposition to DRK Photo's motion for summary judgment.

2. At the request of counsel, I prepared the documents that have been submitted as exhibits B and C to the Declaration of Autumn Witt Boyd executed on June 28, 2013.

3. I have reviewed Ms. Boyd's Exhibit A and find that some of the print run and distribution numbers are at odds with the numbers set forth in Exhibits B and C.

4. For instance, Exhibit A claims that Wiley printed over 50,000 copies of Murck, Visualizing Geology 1e. This number is not correct. Exhibit B shows that Wiley printed fewer than 30,000 copies of this textbook.

5. Similarly, Exhibit A claims that Wiley printed over 40,000 copies of Strahler, Introducing Physical Geography 3e. This number is not correct. Exhibit B shows that Wiley printed fewer than 40,000 copies of this textbook. DRK appears to be including a "Media

Edition,” which I believe was a subsequently licensed and published “update” of the third edition.

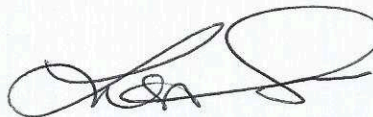
6. Exhibit B breaks down sales (and from which distribution center the sales originated) by Wiley’s financial year. Wiley’s financial year runs from May 1 to April 30. Thus, sales listed under the 2008 column would have occurred between May 1, 2007 and April 30, 2008.

7. Accordingly, Exhibit B shows that a number of textbooks that are the subject of DRK’s motion had no sales activity – and by implication no printings – after April 30, 2008. These titles are:

- a. Botkin, Environment 3e;
- b. Skinner, Dynamic Earth 4e;
- c. Strahler, Introducing Physical Geography 2e;
- d. Strahler, Introducing Physical Geography 2e Update;
- e. Strahler, Introducing Physical Geography 3e;
- f. Strahler, Science and Systems 2e; and
- g. Trefil, Sciences 2e Update.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26 day of July, 2013

A handwritten signature in black ink, appearing to read 'Lisa Suarez', is written over a horizontal line.

Lisa Suarez